

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

APPENDIX H

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS <p style="text-align: center;">Carol Quartuccio</p> (b) County of Residence of First Listed Plaintiff <u>Bucks</u> <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small> (c) Attorney's (Firm Name, Address, and Telephone Number) <p style="text-align: right;">Stephen G. Console, Esquire Console Law Offices LLC 1525 Locust Street 9th Floor Philadelphia, PA 19102</p> <p>(215) 545-7676</p>	DEFENDANTS <p style="text-align: center;">Bimbo Bakeries USA, Inc.</p> County of Residence of First Listed Defendant <u>Montgomery</u> <small>(IN U.S. PLAINTIFF CASES ONLY)</small> <p style="text-align: center;">NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> <td></td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> <td></td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> <td></td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4		Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6	
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IV. NATURE OF SUIT (Place an "X" in One Box Only)	
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition
FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)
<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>42 U.S.C. §2000(e), et seq. ("Title VII"); 29 U.S.C. §621 ("ADEA")</u>
Brief description of cause: <u>Plaintiff is alleging age discrimination and sex discrimination.</u>	

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ <u>in excess of \$75,000</u> CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY <u>n/a</u>	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE <u>August 23, 2016</u>	SIGNATURE OF ATTORNEY OF RECORD
FOR OFFICE USE ONLY	

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Carol Quartuccio, Doylestown, PA 18902

Address of Defendant: Bimbo Bakeries USA, Inc., 255 Business Center Drive, Horsham, PA 19044

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multi-district litigation possibilities?
RELATED CASE, IF ANY:

Yes ☐ No ☒

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FEHA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Stephen G. Console, Esquire, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: Aug. 23, 2016

Attorney-at-Law

36656

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: Aug. 23, 2016

Stephen G Console, Esquire

36656

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Carol Quartuccio	:	CIVIL ACTION
	:	
v. Plaintiff,	:	
	:	
Bimbo Bakeries USA, Inc.	:	NO.
Defendant.		

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

Aug. 23, 2016

Date


Attorney-at-law

Plaintiff, Carol Quartuccio

Attorney for Plaintiff

(215) 545-7676

Telephone

(215) 565-2850

FAX Number

console@consolelaw.com

E-Mail Address

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

CAROL QUARTUCCIO,
Doylestown, PA 18902

Plaintiff,

v.

BIMBO BAKERIES USA, INC.,
255 Business Center Drive,
Horsham, PA 19044

Defendant.

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

I. INTRODUCTION

Plaintiff, Carol Quartuccio, brings this action against her former employer, Bimbo Bakeries USA, Inc. (“Bimbo”), for unlawful discrimination, hostile work environment and retaliation in violation of the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621, *et seq.*, (“ADEA”), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* (“Title VII”), and the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”). Plaintiff was the oldest and only female Key Account Manager for Bimbo. Despite having impressive sales numbers and positive customer relationships, Plaintiff, age 58 at the time, was unfairly targeted by her younger male supervisor who discriminated against her and subjected her to a hostile work environment. When Plaintiff complained of this mistreatment to Bimbo, her supervisor escalated his behavior, openly criticized Plaintiff in front of her co-workers and assigned her a negative account to diminish her performance record. When Plaintiff requested a follow-up meeting to address the escalation of her supervisor’s

conduct, Bimbo elected to terminate the Plaintiff without notice, in direct retaliation for Plaintiff complaining of discrimination. Bimbo then replaced Plaintiff with a younger, male employee. By firing Plaintiff and replacing her with a male employee, Bimbo succeeded in creating an all-male sales team for Bimbo's national accounts.

II. **PARTIES**

1. Plaintiff, Carol Quartuccio, is an individual and a citizen of Pennsylvania, residing in Doylestown, Pennsylvania.

2. Plaintiff is female.

3. Plaintiff was fifty-eight (58) years old at the time Defendant terminated her employment.

4. Defendant, Bimbo Bakeries USA, Inc., is a Delaware corporation with its corporate headquarters located at 255 Business Center Drive, Horsham, PA 19044.

5. Defendant is a subsidiary of Grupo Bimbo, S.A.B. de C.V., a world-wide bakery product manufacturing company headquartered in Mexico City, Mexico.

6. Defendant is engaged in an industry affecting interstate commerce, and at all relevant times, has regularly conducted business in the Commonwealth of Pennsylvania.

7. During her employment, Plaintiff's work location was Defendant's corporate headquarters. Plaintiff was also permitted, at times, to work remotely until August 2014 when she was required to work at Defendant's corporate headquarters.

8. At all times material hereto, Defendant has acted as an "employer" within the meaning of the statutes which form the basis of this matter.

9. At all times hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant and in furtherance of Defendant's business.

10. At all times material hereto, Defendant employed more than twenty (20) individuals.

11. At all times material hereto, Plaintiff was an "employee" of Defendant within the statutes that form the basis of this matter.

III. **JURISDICTION AND VENUE**

12. The causes of action that form the basis of this matter arise under the ADEA, Title VII, and the PHRA.

13. The District Court has jurisdiction over Count I (ADEA) and Count II (Title VII) pursuant to 28 U.S.C. §1331.

14. The District Court has jurisdiction over Count III (PHRA) pursuant to 28 U.S.C. §1367.

15. Venue is proper in the District Court pursuant to 28 U.S.C. §1391(b) and 42 U.S.C. §2000e-5.

16. On or about March 10, 2015, Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), complaining of the acts of discrimination alleged herein ("Charge"). Attached hereto, incorporated herein, and marked as Exhibit "A" is a true and correct copy of the EEOC Charge of Discrimination (with personal identifying information redacted).

17. On or about May 26, 2016, the EEOC issued to Plaintiff a Notice of Right to Sue. Attached hereto, incorporated herein, and marked as Exhibit “B” is a true and correct copy of this notice (with personal identifying information redacted).

18. Plaintiff is filing this complaint within ninety (90) days from her receipt of this notice.

19. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. **FACTUAL ALLEGATIONS**

20. Plaintiff was hired by Bimbo as a Key Account Manager in or about May of 2009.

21. As a Key Account Manager, Plaintiff reported to Glenn Stewart, Director of Food Services, a male manager who is younger than Plaintiff.

22. Stewart reported to Christopher Finck, Senior Vice President of National Accounts, a male executive who is younger than Plaintiff.

23. Plaintiff was the only Key Account Manager until Defendant’s parent company acquired Sara Lee Corporation's North American Fresh Bakery business on or about November 2011.

24. As a result of the Sara Lee acquisition, Bimbo acquired two additional Key Account Managers who were both male and younger than Plaintiff.

25. Bimbo bakes, sells and distributes several name brand bakery products throughout the United States, including, for example, Entenmann’s®, Thomas’® and Stroehmann®.

26. As a Key Account Manager, Plaintiff’s job required that she develop and maintain customer relationships with food service accounts across the country and identify new opportunities for future customer relationships.

27. At all times relevant hereto, Plaintiff performed her duties in a competent manner.

28. During Plaintiff's employment, Plaintiff was the oldest Key Account Manager.

29. During Plaintiff's employment, Plaintiff was the only female Key Account Manager.

30. As a Key Account Manager, Plaintiff was required to meet weekly with her supervisor, Stewart. Stewart required Plaintiff to meet in person with him while the other two male Key Account Managers were able to conduct their meetings with Stewart by phone.

31. On August 18, 2014, during a weekly meeting between Stewart and Plaintiff, Stewart harshly criticized Plaintiff's performance and unfavorably compared Plaintiff to the other two male Key Account Managers. Stewart told Plaintiff that he was putting her on "probation" and that he was going to record everything Plaintiff did wrong from thereon out.

32. At the time of the August 18, 2014 meeting, Plaintiff had the best sales numbers of all the Key Account Managers.

33. Probation is not a recognized form of discipline under Defendant's company policies.

34. Plaintiff never received anything in writing from Defendant explaining "probation" or verifying or supporting Stewart's assertion that she was on "probation."

35. Later in August, Stewart assigned an account to Plaintiff that was known to be operating in the negatives and would negatively impact Plaintiff's sales numbers.

36. On or about August 26, 2014, Plaintiff delivered a written complaint of discrimination based on age and sex to the Lou Minella, the Senior Vice President of Human Resources.

37. Minella assigned Plaintiff's complaint to a more junior level human resources employee, Kelly Forester.

38. On or about September 15, 2014, Plaintiff met with Forester and reiterated her complaints of age and sex discrimination. Plaintiff informed Forester that the conditions had not improved.

39. Following Plaintiff's complaints of discrimination to Minella and Forester, Stewart continued to provide Plaintiff with harsh and unfounded criticism of her performance.

40. On or about September 22, 2014, Plaintiff went to Forester and told her that Stewart's conduct towards her was getting worse and that Stewart's treatment was very emotional and stressful for Plaintiff. Forester responded by saying Stewart had a "very different story."

41. Stewart continued to harass Plaintiff during meetings, provide her with unfounded performance criticism, and ask more of Plaintiff than the other younger, male employees.

42. On or about October 3, 2014, Plaintiff told Forester that Stewart's treatment of her was worsening and scheduled a follow up meeting with Forester for October 10, 2014.

43. On or about October 8, 2014, Plaintiff participated in a telephone conference with approximately fifteen (15) other sales employees, and Stewart singled Plaintiff out by, among other things, asking unrealistic questions of Plaintiff. Stewart did not treat other younger and/or male employees in this manner.

44. After the telephone call, Plaintiff's coworkers told Plaintiff, among other things, that they felt uncomfortable during the meeting due to Stewart's treatment of Plaintiff and they did not understand why Stewart treated Plaintiff in such a hostile manner.

45. On or about October 10, 2014, Plaintiff met with Forester in order to discuss Stewart's escalating harassing behavior.

46. Forester began the meeting by informing Plaintiff that her employment was terminated. Plaintiff's termination was effective immediately.

47. Forester stated that Plaintiff's employment was terminated because Plaintiff did not get along with Stewart and "poor performance."

48. Defendant represented to the EEOC that Plaintiff was terminated because it determined her complaints of discrimination were "not made in good faith" and "inconsistent with the core values" of the corporation.

49. Upon information and belief, Defendant has a progressive discipline policy, pursuant to which employees are typically put on performance improvement plans or given write-ups that lists goals and expectations prior to being terminated.

50. Plaintiff did not receive anything in writing leading up to Plaintiff's termination that would have supported Defendant's state reason of "poor performance."

51. Plaintiff was escorted out of the building where there was a taxi waiting.

52. Defendant failed to adequately investigate or remedy Plaintiff's complaints of discrimination and retaliation, and rather, terminated Plaintiff's employment in retaliation for her complaints.

53. Plaintiff was the only employee terminated at the time.

54. Upon information and belief, Defendant replaced Plaintiff with a male who is approximately twelve (12) years younger than Plaintiff.

55. Upon information and belief, after Plaintiff's termination, Plaintiff's position is now called "National Account Manager," despite Defendant denying Plaintiff this title while employed.

56. Upon information and belief, after Plaintiff's termination, all National Account Managers of Defendant are male.

57. Upon information and belief, there is a significant underrepresentation of female employees at Defendant.

58. Upon information and belief, there is a significant underrepresentation of older employees at Defendant.

59. At the time of her termination, Plaintiff had the highest sales growth numbers of all the Key Account Managers.

60. Plaintiff's sex was a substantial, motivating and/or determinative factor in Defendant's discriminatory and retaliatory treatment of Plaintiff, including the hostile work environment to which Plaintiff was subjected, and the decision to terminate her.

61. Plaintiff's age was a substantial, motivating and/or determinative factor in Defendant's discriminatory and retaliatory treatment of Plaintiff, including the hostile work environment to which Plaintiff was subjected and the decision to terminate her.

62. Plaintiff's complaining of sex discrimination and age discrimination was a motivating and/or determinative factor in Defendants' retaliatory treatment of Plaintiff, including the hostile work environment to which Plaintiff was subjected, and Defendant terminating Plaintiff.

63. Defendant failed to prevent or address the discriminatory and retaliatory conduct referred to herein and further failed to take corrective and remedial measures to make the workplace free of discriminatory and retaliatory conduct.

64. The retaliatory actions taken against Plaintiff after she complained of discriminatory conduct would have discouraged a reasonable employee from complaining of discrimination.

65. The discriminatory and retaliatory conduct of Defendant, as alleged herein, was severe and/or pervasive enough to make a reasonable person believe that the conditions of employment had been altered and that a hostile work environment existed, and made Plaintiff believe that the conditions of employment had been altered and that a hostile work environment existed.

66. As a direct and proximate result of the discriminatory and retaliatory conduct of the Defendant, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

COUNT I - ADEA

67. Plaintiff incorporates paragraphs 1 through 66 as if set forth herein in their entirety.

68. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendant has violated the ADEA.

69. Said violations were willful and warrant the imposition of liquidated damages.

70. As a direct and proximate result of Defendant's violation of the ADEA, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

71. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

72. No previous application has been made for the relief requested herein.

COUNT II – TITLE VII

73. Plaintiff incorporates herein by reference paragraphs 1 through 72 above, as if set forth herein in their entirety.

74. By committing the foregoing acts of discrimination and retaliation against Plaintiff, Defendant has violated Title VII.

75. Defendant acted intentionally, and with malice and/or reckless indifference to Plaintiff's rights, and its conduct warrants the imposition of punitive damages.

76. As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

77. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

78. No previous application has been made for the relief requested herein.

COUNT III – PHRA

79. Plaintiff incorporates herein by reference paragraphs 1 through 78 above, as if set forth herein in their entirety.

80. Defendant, by the above retaliatory and discriminatory acts, has violated the PHRA.

81. Said violations were intentional and willful.

82. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages and losses set forth herein and has incurred attorneys' fees and costs.

83. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendant's discriminatory acts unless and until the Court grants the relief requested herein.

84. No previous application has been made for the relief requested herein.

RELIEF

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's improper conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- (a) declaring the acts and practices complained of herein to be in violation of the ADEA;
- (b) declaring the acts and practices complained of herein to be in violation of Title VII;
- (c) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (d) enjoining and permanently restraining the violations alleged herein;
- (e) entering judgment against the Defendant and in favor of the Plaintiff in an amount to be determined;
- (f) awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct;
- (g) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation and loss of life's

pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct;

- (h) awarding liquidated damages to Plaintiff under the ADEA;
- (i) awarding punitive damages to Plaintiff under Title VII;
- (j) awarding Plaintiff such other damages as are appropriate under the ADEA, Title VII, and the PHRA;
- (k) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees; and,
- (l) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

CONSOLE LAW OFFICES LLC

Date: August 23, 2016

By: 

Stephen G. Console (PA36656)
Megan Knowlton Balne (PA309583)
1525 Locust Street, 9th Floor
Philadelphia, PA 19102
(215) 545-7676
(215) 565-2850 (fax)

*Attorneys for Plaintiff,
Carol Quartuccio*

EXHIBIT A

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See privacy statement before consolidating this form.		AGENCY FEP <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 530-2015-02651
STATE OR LOCAL AGENCY: <u>PHRC</u>			
NAME (Indicate Mr., Ms., Mrs.) Ms. Carol Quartuccio		TELEPHONE NUMBER (Include Area Code) [REDACTED]	
STREET ADDRESS [REDACTED]	CITY, STATE AND ZIP Doylestown, PA 18902	DATE OF BIRTH [REDACTED]	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP, COMMITTEE, STATE OF LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST ME (If more than one than list below)			
NAME Bimbo Bakeries USA, Inc.	NUMBER OF EMPLOYEES, MEMBERS 15,000 (Approx.)	TELEPHONE (Include Area Code) (206) 624-9496	
STREET ADDRESS 255 Business Center Drive	CITY, STATE AND ZIP Horsham, PA 19044	COUNTY Montgomery	
CAUSE OF DISCRIMINATION (Check appropriate box(es)) <input type="checkbox"/> Race <input type="checkbox"/> Color <input checked="" type="checkbox"/> Sex <input type="checkbox"/> National Origin <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Other (Specify)		DATE DISCRIMINATION TOOK PLACE Earliest _____ Latest 07/10/2014	
<p>The Particulars Are:</p> <p>A. 1. Relevant Work History</p> <p>In May of 2009,¹ I was hired by Bimbo Bakeries USA, Inc. ("Respondent") as a Key Account Manager. At the time of my termination, I reported to Glenn Stewart (m, 44²), Director of Food Services. Mr. Stewart reported to Christopher Finck (m, 47), Senior Vice President of National Accounts.</p> <p>At all times, I performed the duties of my job in a competent manner.</p> <p>2. Harm Summary</p> <p>I believe that Respondent has discriminated against me, including subjecting me to a hostile work environment, based upon my age (59) and my sex (female), and has retaliated against me based upon my complaints of the same. Evidence of discriminatory and retaliatory conduct includes, but is not limited to, the following:</p> <p>a) On August 18, 2014, I had a meeting with Mr. Stewart, during which Mr. Stewart unjustifiably and harshly criticized my performance. Mr. Stewart unfavorably compared me to the other two male Key Account Managers, and told me that he was placing me on probation. The probation was unfounded. Mr. Stewart told me that he was going to record everything I did wrong from there on out. Mr. Stewart was visibly angry during</p>			

¹ All dates referenced herein are approximations.² All ages referenced herein are approximations.

this meeting.

- b) Mr. Stewart did not treat other male and/or younger employees in this manner.
- c) On August 19, 2014, I had a follow-up meeting with Mr. Stewart, during which I expressed my concern with how Mr. Stewart had treated me during our August 18, 2014 meeting. I told Mr. Stewart that I did not agree with his criticism of my performance and that the criticism was unfounded. In response, Mr. Stewart reiterated to me that he was placing me on probation, and he told me that he would be writing me up for everything I did wrong from that point forward.
- d) I never received anything in writing verifying or supporting the probation that Mr. Stewart verbally placed me on.
- e) On August 25, 2014, I had a meeting with Mr. Stewart, during which Mr. Stewart assigned an account to me that was known to have been operating in the negatives. Upon information and belief, Mr. Stewart assigned me this account in an effort to set me up for failure.
- f) On August 26, 2014, I delivered a letter to Lou Minella (m, 58), Senior Vice President of Human Resources, in which I complained of discrimination based upon my age and sex. The letter explained that: I was being "suppressed" and "forced out;" Mr. Stewart's "approach to women is very forceful and hurtful;" Mr. Stewart favored male employees; "I have never felt safe under the supervision of Glenn Stewart;" Mr. Stewart was discriminating against me based upon my age and my sex; and that Mr. Stewart "has a problem with women."
- g) On August 29, 2014, Mr. Minella called me into a meeting to discuss my complaints, during which I reiterated my complaints of discrimination. Mr. Minella told me that he would get back to me. When Mr. Minella got back to me, he told me that he was passing my complaint along to a Human Resources Manager, Kelly Forester (f, 39), who reports to Mr. Minella.
- h) On September 15, 2014, I met with Ms. Forester and I reiterated my complaints of age and sex discrimination. I explained to Ms. Forester that the conditions have not improved.
- i) Following my complaints of discrimination to Mr. Minella and Ms. Forester, Mr. Stewart continued to provide me with harsh and unfounded criticism of my performance.
- j) On September 22, 2014, I met with Ms. Forester again. I told Ms. Forester that Mr. Stewart's discriminatory treatment of me had worsened since my initial complaint. I explained to Ms. Forester that Mr. Stewart's treatment of me has been very emotional and stressful. In response, Ms. Forester told me that Mr. Stewart had a "very different story."

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DISTRICT OF PHILADELPHIA
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DISTRICT OF COLUMBIA
- k) On October 3, 2014, I told Ms. Forester that the discriminatory treatment by Mr. Stewart was worsening. I explained that Mr. Stewart continued to harass me during meetings, provided me with unfounded performance criticism, and asked more of me than other younger and/or male employees. On October 3, 2014, I scheduled a follow-up meeting with Ms. Forester for October 10, 2014.
 - l) On October 8, 2014, during a telephone conference with approximately fifteen (15) other individuals, Mr. Stewart singled me out by asking unrealistic questions of me. Mr. Stewart did not treat other younger and/or male employees in this manner. Following the telephone call, my coworkers came up to me and told me, among other things, that they felt uncomfortable during the meeting due to Mr. Stewart's treatment of me and that they did not understand why Mr. Stewart treated me in such a hostile manner.
 - m) On October 10, 2014, I had my follow-up meeting with Ms. Forester, which was scheduled in order to discuss my complaints of discrimination. Ms. Forester began the meeting by telling me that my employment was terminated because I "don't get along with Glenn" and because of "poor performance." No other stated reasons were provided for my termination, and no support was given for Respondent's stated reasons. I was terminated before being given an opportunity to discuss my complaints of discrimination at this meeting.
 - n) I still have not received any write-ups, performance improvement plans, or other documentation supporting Respondent's stated reason for my termination of "poor performance."
 - o) Upon information and belief, Respondent has a progressive discipline policy, pursuant to which employees are typically put on performance improvement plans or given write-ups that lists goals and expectations, prior to being terminated. I did not receive anything in writing leading up to my termination that would have supported Respondent's stated reason of "poor performance."
 - p) During my termination meeting, I asked Ms. Forester why I was being terminated without first receiving write-ups, and Ms. Forester told me that it was because Mr. Stewart didn't want to say anything until now.
 - q) After I was terminated, I was escorted out of the building where there was a taxi waiting for me.
 - r) Respondent failed to adequately address or remedy my complaints of discrimination, and rather, terminated my employment shortly after my complaints. I was the only employee terminated at the time.
 - s) Upon information and belief, Respondent replaced me with a male who is approximately twelve (12) years younger than me.
 - t) Upon information and belief, there is a significant underrepresentation of female

employees at respondent.

- u) Upon information and belief, there is a significant underrepresentation of older employees at Respondent.

B. Respondent's Stated Reasons

- a) Respondent has not provided any legitimate reason for subjecting me to a hostile work environment.
- b) Respondent's stated reasons for terminating my employment are pretextual and unworthy of belief.
- c) Respondent has not provided any legitimate reason for retaliating against me based upon my complaints of age and sex discrimination.

C. Statutes and Basis for Allegations

I believe that Respondent has discriminated against me based upon my age (59) and sex (female), and has retaliated against me for my complaints of the same, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* ("Title VII"), the Age Discrimination in Employment Act, as amended, 29 U.S.C. §621, *et seq.* ("ADEA"), and the Pennsylvania Human Relations Act, as amended 43 P.S. §951, *et seq.* ("PHRA").

D. Class and Pattern and Practice Charge

I bring this Charge as a class and pattern and practice Charge on behalf of all female employees and female applicants for employment with Respondent, who have been adversely treated, including being subjected to a hostile work environment, being terminated, not being promoted, or not being hired by Respondent.

<p><input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures</p>	<p>NOTARY—(when necessary for State and Local Requirements)</p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge information and belief.</p>
<p>I declare under penalty or perjury that the foregoing is true and correct.</p>	
<p>3/9/2015 <i>Carol B. Zyzanski</i> Date: Charging Party (Signature)</p>	<p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day-Month, and year)</p>

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INFORMATION FOR COMPLAINANTS & ELECTION OPTION
TO DUAL FILE WITH THE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

Carol Quartuccio v. Bimbo Bakeries USA, Inc.

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EEOC No. 530-2015-02551

You have the right to file this charge of discrimination with the Pennsylvania Human Relations Commission (PHRC) under the Pennsylvania Human Relations Act. Filing your charge with PHRC protects your state rights, especially since there may be circumstances in which state and federal laws and procedures vary in a manner which would affect the outcome of your case.

Complaints filed with the PHRC must be filed within 180 days of the act(s) which you believe are unlawful discrimination. If PHRC determines that your PHRC complaint is untimely, it will be dismissed.

If you want your charge filed with the PHRC, including this form as part of your EEOC charge, with your signature under the verification below, will constitute filing with the PHRC. You have chosen EEOC to investigate your complaint, so PHRC will not investigate it and, in most cases, will accept EEOC's finding. If you disagree with PHRC's adoption of EEOC's finding, you will have the chance to file a request for preliminary hearing with PHRC.

Since you have chosen to file your charge first with EEOC, making it the primary investigatory agency, the Respondent will not be required to file an answer with PHRC, and no other action with PHRC is required by either party, unless/until otherwise notified by PHRC.

If your case is still pending with PHRC after one year from filing with PHRC, you have the right to file your complaint in state court. PHRC will inform you of these rights and obligations at that time.

[Sign and date appropriate request below]

X I want my charge filed with PHRC. I hereby incorporate this form and the verification below into the attached EEOC complaint form and file it as my PHRC complaint. I request EEOC to transmit it to PHRC.

X I understand that false statements in this complaint are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

X

Carol A. Quartuccio 3/9/2015
Signature and Date

 I do not want my charge dual filed with PHRC

Signature and Date

EXHIBIT B

EEOC Form 161-B (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Carol Quartuccio**
 [REDACTED]
 Doylestown, PA 18902

From: **Philadelphia District Office**
 801 Market Street
 Suite 1300
 Philadelphia, PA 19107

☐ On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
530-2015-02551	Legal Unit, Legal Technician	(215) 440-2828

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- ☒ More than 180 days have passed since the filing of this charge.
- ☐ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.


Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- ☒ The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


 Spencer H. Lewis, Jr.,
 District Director

5/26/16
 (Date Mailed)

Enclosures(s)

cc: **Lisa M. Scidurlo, Esq. (for Respondent)**
Kevin Console, Esq. (for Charging Party)